ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana	CC Docket No. 98-121

COMMENTS OF AMERITECH ON SECOND APPLICATION BY BELLSOUTH TO PROVIDE IN-REGION, INTERLATA SERVICES IN LOUISIANA

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Ameritech Corporation ("Ameritech") hereby submits its Comments in support of BellSouth's second application for in-region, interLATA authority in Louisiana under Section 271 of the Telecommunications Act of 1996 ("1996 Act" or "Act"). If BellSouth's factual allegations are correct, it has satisfied the statutory prerequisites under Section 271 for interLATA entry.[1/] BellSouth's application should be approved so that BellSouth may contribute to a much-needed increase in competition for long distance services in Louisiana.

Ameritech will limit its comments to four issues: (1) whether PCS is a "telephone exchange service" and PCS providers therefore can qualify as "Track A" carriers; (2) whether calls to Internet service providers are interstate calls and therefore not subject to the competitive

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1/ Indeed, BellSouth appears to have exceeded the 1996 Act's requirements in several respects. For example, BellSouth states that it provides competing local exchange carriers with preassembled combinations of network elements, including "common transport," which are not required by the 1996 Act. (BellSouth Br. at 39, 45).

checklist's reciprocal compensation requirements; (3) whether collocation is the proper method of providing nondiscriminatory access to unbundled network elements at the incumbent's premises; and (4) whether granting BellSouth's application will serve the public interest. By focusing on these topics, Ameritech does not mean to imply that it disagrees with other aspects of BellSouth's application. Ameritech strongly supports BellSouth's application and believes that granting it will have a salutary effect on competition for both local exchange and long distance services in Louisiana, thus furthering the goal of the 1996 Act to open all telecommunications markets to competition. *See* H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 113 (1996).

ARGUMENT

I. PCS FALLS WITHIN THE STATUTORY DEFINITION OF "TELEPHONE EXCHANGE SERVICE."

In its Comments on BellSouth's first Section 271 application in Louisiana, Ameritech argued that Section 271 of the 1996 Act did not preclude a provider of personal communications service ("PCS") from being treated as a "facilities-based competitor" under subsection (c)(1)(A). The Commission accepted that argument, concluding that "Section 271 does not preclude the Commission from considering the presence of a PCS provider in a particular state as a 'facilities-based competitor.'" *Louisiana Order* ¶ 72.[2/] The Commission further stated that a Section 271 applicant relying on a PCS provider as a "facilities-based competitor" must show that the PCS provider "offers service that both [i] satisfies the statutory definition of 'telephone exchange

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2/ *In the Matter of Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, 13 FCC Rcd 6245 (1998).

service' in section 3(47)(A) and [ii] competes with the telephone exchange service offered by the applicant in the relevant state." *Id.* ¶ 73. Ameritech's Comments will focus on the first requirement.[3/] As demonstrated below, the language and structure of the Act and Commission decisions uniformly indicate that PCS providers do in fact provide "telephone exchange service" under Section 3(47)(A). Thus, Ameritech agrees with BellSouth's argument (BellSouth Br. at 9-15) that PCS providers can be Track A providers.

Section 3(47)(A) defines "telephone exchange service" as "service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge." 47 U.S.C. § 153(47)(A); 47 C.F.R. § 51.5 (same). No delicate parsing of this definition is necessary to prove that PCS qualifies as "telephone exchange service." This is because PCS is a type of mobile radio service or "commercial mobile service,"[4/] and Congress has indicated, and the Commission has repeatedly found, that mobile radio services fall within the definition of "telephone exchange

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[3/] With respect to the second requirement, Ameritech believes that BellSouth has demonstrated that PCS is a competitive alternative to wireline services for certain residential and business customers, assuming BellSouth's factual allegations are correct. (*See* BellSouth Br. at 11-15 and Declaration of William C. Denk and the attached "Louisiana PCS Study" dated April 1998).

[4/] *See* 47 U.S.C. § 332(d)(1) (defining "commercial mobile service"); *Implementation of Sections 3(n) and 332 of the Communications Act — Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411, ¶ 119 (1994) ("All PCS spectrum will be presumed to be licensed as [commercial mobile service]."); Kellogg, Thorne & Huber, *Federal Telecommunications Law*, § 13.3.1g at 185-86 (1995 Supp.) (commercial mobile service under Section 332(d)(1) "includes cellular radio service . . . and PCS"); 47 C.F.R. § 24.5 (defining PCS as "[r]adio communications that encompass mobile and ancillary fixed communication . . . .").

service" in Section 3(47)(A). Consequently, PCS is a type of "telephone exchange service" under that provision.

As a preliminary matter, it is significant that the definition of "telephone exchange service" in Section 3(47)(A) was not modified by the 1996 Act .[5/] Thus, the following pre-1996 Act provisions and decisions are directly relevant to the analysis here.

The first Congressional indication that mobile radio services are "telephone exchange service" is found in Section 221(b) of the Communications Act of 1934. Section 221(b), which limits the Commission's jurisdiction over "wire, *mobile*, or point-to-point radio" services, refers to all of those services as being "telephone exchange service[s]." 47 U.S.C. § 221(b) (emphasis added). Similarly, the MFJ court specifically stated that mobile radio services provided by divested BOCs are "exchange telecommunications services" and that, therefore, BOCs could provide such services within LATA boundaries without court approval. *United States v. Western Elec. Co., Inc.*, 578 F. Supp. 643, 645 (D.D.C. 1983). Indeed, the court noted that that issue was never in dispute: "All parties to this proceeding are in agreement . . . [that] mobile radio services are 'exchange telecommunications services' within the meaning of section II(D)(3) of the decree." *Id.*

[5/] The definition of "telephone exchange service" prior to the 1996 Act was found at 47 U.S.C. § 153(r). The 1996 Act moved this definition to 47 U.S.C. § 153(47)(A) and also added a new subsection (B) (which is not referenced in Section 271(c)(1)(A)). The Commission already has concluded that PCS, "[a]t a minimum," falls within the definition of "telephone exchange service" in subsection (B). *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, ¶ 1013 (1996) ("*Local Competition Order*"), vacated in part, *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), cert. granted, 118 S. Ct. 879 (1998).

In 1984, the Commission confirmed that "RCCs [radio common carriers] provide '*exchange service*' under Sections 2(b) and 221(b) of the Communications Act" and acknowledged that "we have consistently treated the mobile radio services provided by RCCs and telephone companies as *local in nature*."[6/] In 1986, the Commission similarly found that cellular carriers are "generally engaged in the provision of *local exchange telecommunications* in conjunction with the local telephone companies."[7/] The Commission reaffirmed that conclusion in 1994.[8/]

Thus, by the time the 1996 Act took effect it was clear that both Congress and the Commission viewed providers of commercial mobile services, including PCS and cellular services, as offering "telephone exchange service" under the same definition now found in Section 3(47)(A). The fact that Congress did not change the definition found in Section 3(47)(A) means that it ratified the prior reading of that definition to include commercial radio services such as PCS. *Lorillard v. Pons*, 434 U.S. 575, 581 (1978) (when "Congress adopts a new law incorporating sections of a prior law, Congress normally can be presumed to have had

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6/ *MTS/WATS Market Structure*, 97 F.C.C.2d 834, ¶ 149 (1984) (emphasis added).

7/ *Need to Promote Competition and Efficient Use of the Spectrum for Radio Common Carrier Services*, Memorandum Opinion and Order, 59 Rad.Reg.2d 1275, ¶ 12 (1986) (emphasis added); *id.*, Appendix B at 1284, ¶ 5 and n.3 (stating that "cellular carriers are generally involved in the provision of local, intrastate *exchange telephone service*" and referring the "holding in the Access Charge proceeding . . . that *cellular carriers are exchange carriers*") (emphasis added).

8/ *Equal Access and Interconnection Obligations Pertaining to Commercial Radio Services*, Notice of Proposed Rulemaking and Notice of Inquiry, 9 FCC Rcd 5408, ¶ 107 and nn. 192 and 195 (and cases cited therein) (1994).

knowledge of the interpretation given to the incorporated law, at least insofar as it affects the new statute.")[9/]

Moreover, definitions in the 1996 Act itself confirm that commercial mobile services, including PCS, fall within the definition of "telephone exchange service" in Section 3(47)(A). *First*, Section 3(44) of the 1996 Act defines the term "local exchange carrier" to include any person that provides "telephone exchange service." 47 U.S.C. § 153(26). That same provision, however, specifically excludes providers of "commercial mobile service," such as PCS, from being "local exchange carrier[s]." This can mean only one thing — that commercial mobile service providers offer "telephone exchange service"; otherwise, there would be no need to specifically exclude mobile service providers from the definition of a "local exchange carrier." *See Local Competition Order* ¶ 1014 ("The fact that the 1996 Act's definition of a LEC excludes CMRS until the Commission finds that such service should be included in the definition, suggests that Congress found that some SMRS providers were providing telephone exchange service.")

[9/] Indeed, while the Commission found in the *Local Competition Order* (¶ 1013) that "cellular, broadband PCS, and covered SMR providers" all provide "telephone exchange service" as defined in the new subsection *(B)* added to the definition of "telephone exchange service" in the 1996 Act (Section 3(47)(B)), the analysis it applied there also supports a finding that those services fall within the definition in Section 3(47)*(A)*. The Commission justified its conclusion regarding subsection (B) in the *Local Competition Order* by citing the decisions noted in the preceding footnote, which found cellular service to be "telephone exchange service." *Local Competition Order* ¶ 1013 and nn. 2390-2391. Those decisions, however, were issued *prior to* the 1996 Act and therefore must be read in light of the then-existing definition of "telephone exchange service," which is the exact same definition now found in Section 3(47)*(A)*. Because the same definition is still in place, the same analysis that led the Commission to find cellular service to be "telephone exchange service" in those orders, and to treat cellular service and PCS the same way for regulatory purposes today, necessarily leads to the conclusion that PCS is "telephone exchange service" under Section 3(47)(A).

It is well recognized that "statutory exceptions exist only to exempt something which would otherwise be covered." 2A N. Singer, *Statutes and Statutory Construction*, § 47.11 at 166 (1992). Furthermore, statutes must not be interpreted in a manner that makes an exception mere surplusage; rather, Congress must be presumed to have excluded commercial mobile service providers from the definition of a "local exchange carrier" for a reason, *i.e.*, to exclude what would otherwise be included. *See Pennsylvania Dept. of Public Welfare v. Davenport*, 495 U.S. 552, 562 (1990); *Arkansas Best Corp. v. Commissioner of Internal Revenue*, 485 U.S. 212, 218 (1988).

Second, Section 253(f) of the 1996 Act addresses the requirements that states may impose on carriers seeking to provide "telephone exchange service . . . in a service area served by a rural telephone company." That section specifically excludes providers of "commercial mobile services," including PCS, from having to meet such requirements before providing telephone exchange service or exchange access in rural areas. 47 U.S.C. § 253(f)(2). Again, no such exclusion would be necessary unless providers of commercial mobile service otherwise would be deemed to provide "telephone exchange service." *See Local Competition Order* ¶ 1014 ("It would have been unnecessary for [Section 253(f)] to include this exception if some CMRS were not telephone exchange service.") Congress cannot be presumed to have created a meaningless exception.

Third, Section 271(c)(1)(A) of the 1996 Act excludes only cellular providers from being Track A carriers, which are defined as "providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access)." As the Commission found, applying the same principles of statutory construction referred to above, this exclusion cannot be surplusage,

and must be read to mean that cellular carriers provide "telephone exchange service" under Section 3(47)(A): "if Congress did not believe that cellular providers were engaged in the provision of telephone exchange service, it would not have been necessary to exclude cellular providers from this provision." *Local Competition Order* ¶ 1014; *see also Louisiana Order* ¶ 72. Because cellular and PCS providers both offer commercial mobile service and are treated the same for most or all regulatory purposes,[10/] this can only mean that PCS providers, too, offer "telephone exchange service" under Section 3(47)(A) and that, since they are not specifically excluded under Section 271(c)(1)(A), they can be Track A carriers.

In short, Congress's language and the Commission's prior rulings inevitably lead to the conclusion that PCS providers are also providers of "telephone exchange service" under Section 3(47)(A). PCS is a type of commercial mobile service, and commercial mobile service is routinely found to be, either directly or by necessary implication, a type of telephone exchange service. The only type of commercial mobile service excluded from being treated as "telephone exchange service" under Section 271(c)(1)(A) is cellular service. Accordingly, PCS must be treated as "telephone exchange service," and PCS providers must be able to qualify as "facilities-based competitors" under Section 271(c)(1)(A).

10/ *See* Kellogg, Thorne & Huber, *Federal Telecommunications Law*, § 13.3.1g at 185 (1995 Supp.) (changes wrought by the Licensing Improvements Act of 1993 "put . . . PCS companies on a regulatory par with cellular carriers"); *see also Local Competition Order* ¶ 1013 (finding that cellular, broadband PCS, and covered SMR providers all provide service that is comparable to telephone exchange service).

II. RECIPROCAL COMPENSATION DOES NOT APPLY TO INTERNET TRAFFIC BECAUSE INTERNET TRAFFIC IS NOT LOCAL TRAFFIC.

As the Commission noted several months ago, it has before it in another docket (CCB/CPD Docket No. 97-30) "the question of whether competitive LECs that serve Internet service providers . . . are entitled to reciprocal compensation for terminating Internet traffic." *Federal-State Joint Board on Universal Service*, FCC 98-67, Report to Congress, ¶ 106 n.220 (April 10, 1998) ("*Universal Service Report*"). That question was presented to the Commission in a June 20, 1997 petition filed by the Association for Local Telecommunications Services ("ALTS"). Although ALTS' petition observed that dial-up connection to an Internet service provider ("ISP") is *interstate* traffic and that the applicability of reciprocal compensation to such traffic is "plainly within this Commission's exclusive jurisdiction," the Commission has yet to address the question raised by ALTS' request. Consequently, state commissions have been forced to fill the void without guidance from the Commission. In the process, they have repeatedly misapplied federal law and asserted jurisdiction over traffic that ALTS itself concedes is interstate.

It is long past time for the Commission to act. The law is clear: a dial-up connection to an ISP is not local traffic, and it is not traffic that terminates at the ISP switch: it is — and has always been considered — interstate access traffic precisely because it does not terminate at the ISP switch.

The Commission can and should address the proper classification of Internet calls as part of evaluating BellSouth's satisfaction of the competitive checklist. Checklist item (xiii) requires applicants to have "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)" with competing LECs. Section 252(d)(2), in turn, refers to a "*State*

commission" as determining whether the terms and conditions of an incumbent LEC's reciprocal compensation arrangements are just and reasonable. This indicates that the incumbent LEC's duty with respect to reciprocal compensation applies *only* to intrastate calls, *i.e.*, calls within a State commission's jurisdiction, and not to interstate calls, which are within the Commission's exclusive jurisdiction. *See* 47 U.S.C. § 152(a). To determine whether an applicant is satisfying checklist item (xiii), then, the Commission must determine, *inter alia*, what calls are interstate and what calls are intrastate — a role it has long fulfilled. BellSouth asserts that Internet traffic is not intrastate traffic and therefore is not subject to reciprocal compensation. (BellSouth Br. at 57-60). Ameritech agrees. Indeed, as demonstrated below, this Commission's precedents compel the conclusion that Internet traffic is interexchange traffic. Thus, BellSouth can satisfy item (xiii) of the checklist without providing reciprocal compensation on Internet calls.

The Commission has repeatedly ruled that dial-up connections over the public switched telephone network to enhanced service providers ("ESP"), including Internet service providers, is an interstate access service. The Commission's rulings date back to the creation of the access charge regime in 1983. At that time, the Commission expressly recognized that ESPs used the local exchange network in the same way as IXCs to originate and terminate interstate calls. Accordingly, the Commission held that ESPs "obtain[] local exchange services or facilities which are used, in part or in whole, for the purpose of completing *interstate calls*." *MTS and WATS Market Structure*, 97 F.C.C.2d 682, ¶ 78 (1983) (emphasis added). *See also id.*, ¶ 83 (ESPs "employ exchange service for *jurisdictionally interstate communications*") (emphasis added). The Commission, however, decided to *exempt* ESP traffic from the Part 69 access charge regime for public policy reasons; specifically, to protect a fledgling industry from rate

shock. As the Commission put it, "[o]ther [exchange access] users who employ exchange service for jurisdictionally interstate communications, including . . . enhanced service providers [like ISPs] . . . who have been paying the generally much lower business service rates, would experience severe rate impacts were we immediately to assess carrier access charges upon them." *Id.* ¶ 83.

The Commission has repeatedly confirmed its view that a connection to an ESP is interstate access traffic. It has revisited the ESP access charge exemption numerous times, and although each time it decided to retain that exemption, it has done so exclusively on policy grounds. Not once has the Commission suggested that ESP traffic is not, in fact, interstate access traffic. *See Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, Notice of Proposed Rulemaking, 2 FCC Rcd 4305, ¶ 7 (1987) (ESPs "*like facilities-based interexchange carriers* and resellers, use the local network to provide *interstate* services) (emphasis added); *Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, Order, 3 FCC Rcd 2631, ¶ 2 (1988) (describing ESPs as "*interstate* service providers"); *In the Matter of Access Charge Reform*, First Report and Order, FCC 97-158, ¶ 341 (1997) (ISPs "may use incumbent LEC facilities to originate and terminate *interstate* calls"); *In the Matter of Bell Atlantic Tel. Cos.*, 11 FCC Rcd 6919, ¶ 50 (1996) (Internet access service "like exchange access service, will provide access to interLATA Internet providers that will complete connections to servers located in other LATAs"). *See also Universal Service Report*, ¶ 146 ("When it established the interstate access charge regime in the early 1980s, the Commission determined that *enhanced service providers*, even though they *used local exchange*

networks to originate and terminate interstate services, would not be subject to access charges.") (emphasis added).

The reason a dial-up connection to an ISP is interstate access — not local — traffic is simple: the Commission has repeatedly held that the boundaries of a communication must be evaluated end to end, and has repeatedly rejected the sort of segmenting that is required to parse a local call out of an Internet communication. For example, when IXCs began using 1-800 numbers for calling card and other services, Southwestern Bell argued that a second call was created by the "second dial tone" that was generated when the IXC was reached. *Southwestern Bell Tel. Co. Transmittal Nos. 1537 & 1560 Revisions to Tariff F.C.C. No. 68*, Order Designating Issues for Investigation, 3 FCC Rcd 2339 (1988). IXCs disputed that position, and argued that "[t]he jurisdictional nature of a call is determined by its ultimate origination and termination, and not . . . its intermediate routing." *Id.* ¶ 26. The Commission accepted the IXCs' position, and rejected Southwestern Bell's attempt to bifurcate 1-800 credit card calls, because "[s]witching at the credit card switch is an intermediate step in a *single end-to-end communication.*" *Id.* ¶ 28.

The Commission adopted a similar approach in *Petition for Emergency Relief and Declaratory Ruling Filed by the BellSouth Corporation*, 7 FCC Rcd 1619, ¶¶ 1-12 (1992). There, the Commission held that a call to an out-of-state voice mail service — *an enhanced service* — constituted a single interstate call, and rejected the argument that such calls comprise two separate communications. The Commission concluded: "Our jurisdiction does not end at the local switch, but continues to the ultimate termination of the call. '*The key to jurisdiction is the nature of the communication itself rather than the physical location of the technology.*' . . .

'[J]urisdiction over interstate communications does not end at the local switchboard, it continues to the transmission's ultimate destination.'" (Emphasis added). *See also Long-Distance/ USA, Inc.*, 10 FCC Rcd 1634, ¶ 13 (1995) (rejecting argument that 1-800 calls could be split into two components: "[B]oth court and Commission decisions have considered the end-to-end nature of the communications more significant than the facilities used to complete such communications. . . a single interstate communication does not become two communications because it passes through intermediate switching facilities.").

The Commission's precedents are dispositive. The very fact that the Commission has asserted jurisdiction over ISP traffic is proof that a dial-up connection to an ISP is not local traffic. Indeed, if those connections were local, they would not have been subject to access charges in the first place, and the Commission would have had no reason to exempt them from such charges. Nor would it have had any basis for repeatedly reconsidering that exemption.

In a number of recent public statements, Chairman Kennard has commented that "justice delayed is justice denied." Because of the Commission's inaction on the ALTS petition, justice has been denied, and it will continue to be denied until the Commission steps to the plate on this matter. The ALTS petition has been fully briefed for over one year. The issues are not difficult; rather, they are a matter of longstanding precedent. Moreover, the Commission's jurisdiction is clear: even ALTS concedes the Commission has exclusive jurisdiction over this matter. Under the circumstances, and especially given that the issue is raised again in the context of BellSouth's application, the time for decision is *now*.

III. COLLOCATION IS THE ONLY AUTHORIZED METHOD FOR COMPETING LECs TO COMBINE UNBUNDLED NETWORK ELEMENTS AT THE INCUMBENT'S PREMISES.

Under prevailing law, incumbent LECs may not be required to combine unbundled network elements on behalf of requesting carriers or to provide requesting carriers with preassembled combinations of network elements. *Iowa Utilities Board v. FCC*, 120 F.3d 753, 813 (8th Cir. 1997), cert. granted, 118 S. Ct. 879 (1998). Rather, it is the requesting carrier that must do the "work" required to combine unbundled network elements into an alternative, competing network. *Id.* Given this backdrop, the question naturally arises: How may requesting carriers combine unbundled network elements at the incumbent LEC's premises? For the following reasons, collocation is the *only* authorized method.

The statutory text leaves no doubt that collocation is *an* authorized method for requesting carriers to combine unbundled network elements at the incumbent's premises. Section 251(c)(3) requires incumbent LECs to provide "access to network elements on an unbundled basis at any technically feasible point," and further requires that such access be provided "in a manner that allows requesting carriers to combine such elements." 47 U.S.C. § 251(c)(3). Section 251(c)(6) requires incumbent LECs to provide "physical collocation of equipment necessary for . . . access to unbundled network elements at the premises of the [incumbent] local exchange carrier," and permits "virtual collocation" as a substitute for physical collocation under certain circumstances. *Id.* § 251(c)(6). These provisions make clear that a requesting carrier can obtain "access to unbundled network elements" — and that the carrier may "combine such elements" — in a collocation space. The incumbent runs jumper cables from the leased elements to the collocation space, where the requesting carrier then "does the combining."

Collocation is not only *an* authorized method for requesting carriers to combine unbundled network elements at the incumbent LEC's premises, but it is the *only* method. The only method set forth in the Commission's rules for obtaining a physical occupation of the incumbent's premises is collocation. 47 C.F.R. § 51.321(b)(1). Indeed, the Commission's rules elsewhere stated that "an incumbent LEC is not required to permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space." *Id.* § 51.323(h)(2). In this respect, the Commission's rules correctly reflect the backdrop against which Congress enacted § 251(c)(6). In *Bell Atlantic v. FCC*, 24 F.3d 1441, 1446-47 (D.C. Cir. 1994), the court ruled that the Commission had no statutory authority to require incumbent LECs to permit other carriers to physically occupy portions of their central offices. Congress expressly authorized the Commission to require collocation in § 251(c)(6), and nowhere else. This fact confirms that collocation is the only authorized method for requesting carriers to occupy an incumbent LEC's premises — and thus the only authorized method for a requesting carrier to gain access to and combine unbundled network elements at the incumbent's premises.

Because collocation is the only statutorily authorized method for a requesting carrier to obtain access to and combine unbundled network elements at the incumbent's premises, collocation by necessity satisfies an incumbent LEC's obligations under § 251(c)(3) to provide "nondiscriminatory" access to unbundled network elements. Of course, the Commission will expect that a BOC demonstrate that it is providing collocation in a manner that actually permits requesting carriers to obtain access to and to combine network elements. As the Commission has previously stated, a BOC must demonstrate that it: makes collocation available pursuant to

legally binding and concrete terms and conditions; timely implements such collocation arrangements; and delivers requested unbundled network elements to such collocation space in a manner that allows the requesting carrier to combine such elements to provide telecommunications service. *See BellSouth South Carolina § 271 Order at ¶¶ 195-209.*

Based on the showing made by BellSouth in its application and supporting materials, it has satisfied this standard.

IV. GRANTING BELLSOUTH'S APPLICATION WILL SERVE THE PUBLIC INTEREST.

Ameritech strongly endorses Bell South's position that the "principal focus" of the Commission's public interest inquiry should be on the impact on the long distance market of permitting BellSouth to provide in-region, interLATA services. (BellSouth Br. at 75-76). The long distance business in the United States continues to be a highly concentrated oligopoly. Indeed, the Commission's own published figures show that AT&T and MCI alone control 79.8% of long distance residential access lines and 76.3% of residential long distance toll revenues. With Sprint added to the mix, those numbers jump to 85.3% and 81.9%. Common Carrier Bureau, *Long Distance Market Shares First Quarter 1998*, Tables 4.1 & 4.2 (June 1998).

The entry of the Bell companies will inject a highly desirable dose of additional competition into that business. Despite the trappings of rivalry between the long distance giants (*e.g.*, relentless telemarketing), the benefits of real long distance competition — the kind that the BOCs have the resources and desire to bring — have been denied to consumers. As William Baumol, an economist who frequently testifies for AT&T, has noted, there has been a significant "loss from denial or postponement of consumers' access to new

communication services" that a BOC "would or might offer but for the [interexchange] restrictions." W. Baumol & J. Sidak, *Toward Competition in Local Telephony* 131 (1994).

Moreover, the potential benefits of the BOCs' entry into long distance are not confined to the long distance sector. Ameritech endorses BellSouth's showing that approval of its application will induce the long distance carriers to hasten their entry into the local exchange business in Louisiana and have a salutary effect on competition for local exchange services nationwide. At present, some of the most powerful potential competitors for local exchange services, including AT&T, MCI, and Sprint, have chosen to remain completely or largely on the sidelines in many states. They apparently seek to protect their own turf by keeping the BOCs out of long distance and preventing them from providing full-service packages. At the same time, they have done an about-face from previously stated intentions and refused to expend the effort and resources necessary to enter the local exchange business. Nothing will facilitate the breaking of this logjam with more dispatch than permitting the BOCs to enter the long distance business, both in Louisiana and throughout the nation. If only to remain competitive with the BOCs in providing integrated services, the large interexchange carriers necessarily would have to enter the local exchange business on a substantial scale.

In short, the surest and most effective way to jump-start competition for *both* local exchange and long distance services is not to micro-manage the operations of the BOCs, but rather to unleash the BOCs to compete for long distance customers, which, in turn, will compel the interexchange carriers to compete for local exchange customers. Far from endangering competition, the BOCs' entry will promote competition that is certain to be lively and robust — a significant boon to consumers and precisely what Congress envisioned in

passing the 1996 Act. In this way, Congress' express purpose in passing the Act — to provide consumers with enhanced services and more competitive prices by opening *both* the interexchange and local exchange businesses to enhanced competition — would be accomplished.[11/] Granting the BellSouth application would constitute a significant, positive step toward this Congressionally mandated goal.

CONCLUSION

In sum, Ameritech supports BellSouth's Lousiana application and urges the Commission to grant the application. Moreover, even if the Commission were to deny the application, it should rule in BellSouth's favor on the issues discussed in these Comments for the reasons stated herein and in BellSouth's brief.

Respectfully submitted,

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11/ H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 113 (1996) (one of the purposes of the 1996 Act is "to provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening *all* telecommunications markets to competition") (emphasis in original).